

UNAPPROVED MINUTES
VERMONT STATE BOARD OF HEALTH
December 14, 2005

Present: Elizabeth Dycus, Chair, Charles Hill, Maureen Molloy, Ragon Willmuth, Mary Skovira, Secretary to the Board, Bill Wargo, Legal Counsel; Al Burns, Division of Health Protection (Food & Lodging); Dan Manz and Steve Salengo, Emergency Medical Services; Paula DiStabile, Medical Practice Board; Frank Reed, Division of Mental Health; John Howland, Commissioner's Office

Anne Donahue, Laura Ziegler, Mike Sabourin, Shay Totten, John Zicconi

The meeting of the Board was convened in Burlington at 10:30 AM.

Food and Lodging Licenses

Al Burns submitted a list of food and lodging licenses approved by the Department of Health since December 2004. These included 173 new, 254 change of ownership, 341 fair stands and 4,360 renewal licenses. The Division of Health Protection has determined that each establishment has fulfilled all state health and tax requirements. The Board was asked to ratify these licenses. Following questioning by the Board, it was moved, seconded, and so voted to ratify the food and lodging licenses as submitted.

Hospital Licenses, Annual Renewal

Ms. DiStabile provided the Board with a summary of the hospital license applications received and reviewed, outlining the items and questions for each that remained the subject of continuing follow-up. She suggested that the Board consider the applications of the Vermont State Hospital (VSH) and Copley Hospital separately from the others.

Regarding the hospitals other than VSH and Copley, all of the applications appeared to be complete. All of these hospitals had resolved or were well into the process of resolving any outstanding items or questions on their applications related to the statutory requirements. These items were, for the most part, progress on changes to the Hospital Patients' Bill of Rights to reflect a recent statutory revision and updates of department contact telephone numbers. Ms. DiStabile suggested that these issues need not prevent the Board from voting on the licenses at this time. If the Board votes to approve the licenses, it may also direct staff to report back within the next two months so that the Board will have confirmation that any remaining issues have been resolved.

Dr. Molloy asked to review CMS reports on all hospitals not accredited by JCAHO and specifically requested the Mt Ascutney survey. Ms DiStabile indicated that all survey results were included with the license applications. Although there have been a number of surveys completed in the last month for which reports are pending.

It was moved, seconded so voted to approve licenses for the following hospitals: Brattleboro, Brattleboro Retreat, Central Vermont, Fletcher Allen, Gifford, North Country, Northeastern Vermont, Northwestern Vermont, Porter, Rutland, Southwestern Vermont, Springfield, Mt

Ascutney, and Grace Cottage.

Vermont State Hospital

Ms. DiStabile acknowledged that the Board will be considering other information regarding VSH, including anticipated comments by members of the public here today. With respect to the application itself and the statutory requirements checklist, VSH appears to meet all of the requirements, with one possible exception. The hospital licensing statute requires that operating and financial statements kept on file for twenty years. Ms. DiStabile reminded the Board that VSH only became subject to the hospital licensing statute and therefore to this requirement in 2004. VSH keeps such records for seven years, which is the state requirement. The Vermont Public Records division also adheres to this seven year requirement and apparently does not keep such records beyond seven years. Since VSH is a state entity, general budget information is likely to be contained in the session laws, which are maintained far longer than twenty years, but that information is not identical to operating and financial statements. After some discussion, the Board asked that the hospital be directed to retain these records for the statutorily required period going forward.

A motion was made to issue a six month temporary conditional license (expires on June 30, 2006) to the VSH on the condition that the VSH send biweekly reports to the Board on the status of their working with the DOJ.

The Chair invited discussion and comments from the group.

Representative Anne Donahue reviewed a December 12, 2005 letter from advocates that had been distributed to the Board prior to the meeting. This letter reiterated concerns outlined at the August meeting and questioned whether documentation had been provided by the state in response to the issues discussed.

Ms Donahue also cited an October 31, 2005 Fletcher Allen Report to the Division of Mental health listing a number of problems and recommended interventions that have not been remedied. She expressed continued concern re safety hazards found at the hospital and the need for independent review. She again recommended that the Board obtain outside council to ensure enforcement of the FAHC contract. Ms Donahue distributed a list of proposed conditions for provisional license.

Ms. Zeigler said that she does not believe that VSH meets the statutory requirements for licensure. She stated that the VSH Patients' Bill of Rights notice is missing several components – the right to information about hospital charges, the right to contact the Board of Health and Board of Medical Practice, and contact information for those Boards.

Ms Ziegler criticized the inability to access records or responses to complaints and that they should be open to the public. She stated a need for clarifying CMS standards such that VSH will be considered the same as every other hospitals. She again expressed concern re lack of a complaint process, Patient's Bill of Right and the role and identification of a patient representative. That patients have a right to know hospital finances and language related to teach and the right to refuse treatment.

Ms. DiStabile asked to respond to one of Ms. Zeigler's comments. She explained that the first version of the Bill of Rights notice filed by VSH with its application had been missing some items, but that the hospital subsequently provided a revised notice and all of the required items should be there. There is a lot of detailed information required in these notices and if something has been missed, she will identify and correct it. Ms. DiStabile requested a recess in order to review the VSH notice.

Ms. Zeigler reviewed a document of complaints and concerns related to physical plant safety that she submitted to the DOJ.

She requested that the board set standards by rule and suggested that the Board request a copy of the September 2003 safety report and status of correction.

Dr. Molloy moved to amend the earlier motion to add that Dr. Molloy and Ms. Dycus will **collate comments of Ms. Zeigler and Representative Donahue into a problem list. The list will be provided to FAHC and the Division of Mental Health who will be required to respond to each item with a plan of correction and timeline. The problem list response and timeline will be updated monthly or more frequently as needed by VSH. The motion was seconded.**

Dr. Willmuth added that he would like the problem list to include a statement that the hospital would be working towards establishing or being accountable to a standard such as CMS and JCAHO

The motions were unanimously approved.

Recess

Ms. DiStabile reported that she had done a quick review of the VSH notice during the break. It does include items that Ms. Zeigler said were missing: the right to request financial information, the right to contact the Board of Health and Board of Medical Practice, and it does give contact information for both. Ms. DiStabile will review it in more detail, and if anything is indeed missing, she will ensure that it is corrected. Ms. Zeigler asked if the revised document had been approved by the hospital's Governing body and stated that it could not be used unless it had been so approved. Ms. DiStabile responded that she thought it had been approved. Ms. Zeigler asked for the date on the document. Ms. DiStabile read the date – November 30, 2005. There was discussion among Ms. Zeigler and others regarding whether this had been on the agenda at the last VSH Governing body meeting. The Board asked Ms. DiStabile to follow up on these questions.

Copley Hospital

Ms. DiStabile explained that Copley Hospital's application appears to be complete, and it is in the process of updating its patient handbook, but a question has arisen with respect to its number of licensed beds. Its hospital licenses have indicated 43 beds since 1999, but the hospital apparently had been licensed for 53 beds in 1998. The hospital calculated and paid the licensing

fee for 53 beds in 2004 and 2005. After some research, the hospital has concluded that it unintentionally applied for 43 beds in 1999 due to a typographical error, and that it inadvertently perpetuated the error by using the previous year's application as a guide for the next. The hospital has requested that its license be restored to reflect 53 licensed beds. In response to a request for documentation, the hospital provided a copy of virtually every year's license in sequence since 1981. There is correspondence requesting a reduction in beds from 54 to 53 at one point, but no such correspondence explaining the reduction from 53 to 43.

Ms. DiStabile preliminarily consulted the Division of Health Care Administration at BISHCA about this request, as 18 V.S.A. § 9434 (c)(4) requires a certificate of need if there is "A change from one licensing period to the next in the number of licensed beds of a health care facility through addition or conversion, or through relocation from one physical facility or site to another." We have not yet had the opportunity to review the documents provided by Copley with BISHCA, or to search for pre-1999 public records.

The Board discussed various options. Ultimately, a motion was made to approve a license for Copley with 43 licensed beds. The motion was seconded, and was approved unanimously. In discussion, Board members indicated that they are willing to consider a future request for an amendment of the number of licensed beds when all of the research is complete and can be presented to the Board.

Hospital Regulations Update

Ms. DiStabile reported that she and Commissioner Jarris were continuing to research options for updating the hospital licensing regulations and hoped to be reporting to the Board on this in the near future. This is a complex undertaking involving review of a number of topics, including quality improvement, patient safety, and examples of how other states use JCAHO accreditation and CMS certification as part of the regulatory process. Dr. Molloy discussed some of the recent changes to the JCAHO hospital accreditation process, and Ms. DiStabile mentioned that there had also been recent changes to the quality assessment and performance improvement components of the CMS Conditions of Participation for Hospitals, which form the basis for hospital surveys conducted under federal law.

VDH has entered into an MOU with DAIL for a nurse surveyor one day per week to assist with tracking hospital complaints.

Proposed draft regulations should be ready for Board distribution soon. Patient safety and quality will be emphasized using root cause analysis to prevent future events. The purpose of the rule is to promote patient safety.

Ms DiStabile was asked to return to report progress in six months.

Ambulance and First Responder Service Licenses

Dan Manz and Steve Salengo, representing Emergency Medical Services (EMS), provided a summary sheet of all services requesting licensure for year 2006.

A total of 180 license renewal applications were received. 168 services were approved consistent

with past licenses. These services have been reviewed and approved without problems by Emergency Medical Services. It was moved, seconded, and so voted to approve all of these licenses as a block. It was moved, seconded and so voted to authorize the Commissioner of Health to sign the licenses for the Board.

Four applications were returned for a minor technical correction. Cornwall Volunteer Fire Department and Winhall Police and Rescue were missing a signature and Mount Snow Rescue and Pownal Fire Protective were missing updated transport agreements. It was moved to issue a full license to these services on receipt of a completed application, if not received by December 31st a three month temporary license will be issued. The motion was seconded and unanimously approved. It was moved, seconded and so voted to authorize the Commissioner of Health to sign the licenses for the Board.

Colchester Center Volunteer Fire Company and Bridgewater Fast Squad are seeking upgrades to their license to the EMT-Intermediate level. Middlebury College Snow Bowl Ski Patrol is requesting a downgrade from the EMT-Intermediate level to the EMT-Basic level. The District Boards for these services have approved the status changes.

A motion was made to accept the above requested changes as a block. The motion was seconded and unanimously approved. It was moved, seconded and so voted to authorize the Commissioner of Health to sign the licenses for the Board.

Three Services, Williston Fire Department, Stowe Mountain Rescue, and the Hartford Fire Department have submitted a request for name change. This request does not require a new application or license.

It was moved, seconded and so voted to approve name changes for the above services and to authorize the Commissioner of Health to sign the licenses for the Board.

Three services, Barnet Rescue, Sugarbush Ski Patrol, and Grace Cottage Hospital will not be renewing their licenses for 2006.

Approval of November 16, 2005 and December 7, 2005 minutes

A motion was made to approve the minutes as submitted. The motion was seconded and so voted.

There being no further business, the meeting was adjourned.

Respectfully submitted,
Mary Skovira
Secretary